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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/610,229	07/05/00	MOODY	R 37261.P058

PM82/0723  
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EXAMINER	
COHEN, C	
ART UNIT	PAPER NUMBER

3634

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DATE MAILED: 07/23/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/610,229**

Applicant(s)

**Moody et al**

Examiner

**Curtis Cohen**

Art Unit

**3634**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jul 5, 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some\* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 20) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 3-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 2, the phrase "with the mounting a drive mechanism" is grammatically indefinite.

Claim 3, lines 4-5, the positive recitation of the window sash in line 5 is indefinite since the window sash is functionally recited, (i.e., the sash is not a required element of the claim), in the independent claim. Therefore, there is a discrepancy whether or not the window sash is a required element of the independent claim.

Claims 3 and 9, in claim 3, applicant functionally recites the locking arrangement. However, in claim 9, the locking arrangement is positively recited. Therefore, there is a discrepancy whether or not the locking arrangement is a positively required element of the claim. If so, then the functional language "for engaging with a locking arrangement" in claim 3, line 4, should be positively recited by deleting the term "for."

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***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Vetter #4,497,135. Vetter teaches a window sash having an opening mechanism. The opening mechanism includes a threaded member 49, a drive mechanism 65, a threaded element 41 and a hinge 35. A locking bar is provided by member 60 shown in Figure 1. Vetter further teaches a lost motion device as described in column 3, line 35 to column 4 line 40.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vetter in view of Lense. Vetter teaches the invention as discussed in the rejection above. Vetter fails to teach a multi-point lock mechanism. Lense teaches a *multi-point* (75, 76, 77) locking mechanism provided to lock a window connected to a lost motion device. Providing a locking mechanism with "multi-points" fortifies the window in the case that one lock fails, the remaining

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locks keep the window secure. For this reason, it would have been obvious to one having ordinary skill in the art, at the time of applicant's invention, to provide Vetter with a multi-point locking arrangement.

*Allowable Subject Matter*

Claims 10-16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>d</sup> paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 10, there is no teaching or suggestion in the prior art of the coupling having a driver which upon engagement with the engagement member imparts movement to the first lock element.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Curtis Cohen whose telephone number is (703) 308-2106.

The fax phone number for this Group is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.



C. Cohen

July 16, 2001